

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	§	Group Art Unit: 2176
William K Bodin, <i>et al.</i>	§	
	§	Examiner: Botts, Michael K
Serial No.: 10/733,947	§	
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APPEAL BRIEF

Honorable Commissioner:

This is an Appeal Brief filed pursuant to 37 CFR § 41.37 in response to the Final Office Action of December 14, 2006 (hereinafter the "Final Office Action"), and pursuant to the Notice of Appeal filed March 12, 2007. The Final Office Action was issued after Appellants filed a Response on September 27, 2006 to the First Office Action dated June 27, 2006 (hereinafter the "First Office Action").

REAL PARTY IN INTEREST

The real party in interest in accordance with 37 CFR § 41.37(c)(1)(i) is the patent assignee, International Business Machines Corporation ("IBM"), a New York corporation having a place of business at Armonk, New York 10504.

RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences within the meaning of 37 CFR § 41.37(c)(1)(ii).

STATUS OF CLAIMS

Status of claims in accordance with 37 CFR § 41.37(c)(1)(iii): Thirty-three (33) claims are filed in the original application in this case. Claims 1-33 are rejected in the Final Office Action. Claims 1-33 are on appeal.

STATUS OF AMENDMENTS

Status of amendments in accordance with 37 CFR § 41.37(c)(1)(iv): No amendments were submitted after final rejection. The claims as currently presented are included in the Appendix of Claims that accompanies this Appeal Brief.

SUMMARY OF CLAIMED SUBJECT MATTER

Appellants provide the following concise summary of the claimed subject matter according to 37 CFR § 41.37(c)(1)(v). This summary includes a concise explanation of the subject matter defined in each of the independent claims involved in the appeal and includes references to the specification by page and line number and to the drawings by reference characters. The three independent claims involved in this appeal are claims 1, 12, and 23. Claim 1 is a method claim. Claims 12 and 23 recite counterpart aspects of the method of claim 1. Claim 12 recites system aspects of the method of claim 1. Claim 23 recites computer program product aspects of the method of claim 1.

Claim 1 recites a method of creating a presentation document (described for example at page 2, lines 3-5, page 9, line 4, through page 10, line 4, and Figure 1 at reference numerals 314, 120, and 122). The method of claim 1 includes creating, in dependence

upon an original document, a structured document comprising one or more structural elements (described for example at page 12, lines 19-28, page 16, lines 20-22, Figure 3 at reference numerals 304, 302, 306, 402, and Figure 6 at reference numerals 304, 302, 306, and 402). The method of claim 1 also includes classifying a structural element of the structured document according to a presentation attribute (described for example at page 16, lines 22-29, page 17, line 5, through page 21, line 28, and Figure 6 at reference numerals 350, 306, 402, and 352). The method of claim 1 also includes creating a presentation grammar for the structured document, wherein the presentation grammar for the structured document includes grammar elements each of which includes an identifier for at least one structural element of the structured document (described for example at page 16, line 29, through page 17, line 3, and Figure 6 at reference numerals 310, 312, 306, 312, 316, 318, and 402).

Claim 12 recites a system of creating a presentation document (described for example at page 2, lines 3-5, page 9, line 4, through page 10, line 4, and Figure 1 at reference numerals 314, 120, and 122). The system of claim 12 includes means for creating, in dependence upon an original document, a structured document comprising one or more structural elements (described for example at page 12, lines 19-28, page 16, lines 20-22, Figure 3 at reference numerals 304, 302, 306, 402, and Figure 6 at reference numerals 304, 302, 306, and 402). The system of claim 12 also includes means for classifying a structural element of the structured document according to a presentation attribute (described for example at page 16, lines 22-29, page 17, line 5, through page 21, line 28, and Figure 6 at reference numerals 350, 306, 402, and 352). The system of claim 12 also includes means for creating a presentation grammar for the structured document, wherein the presentation grammar for the structured document includes grammar elements each of which includes an identifier for at least one structural element of the structured document (described for example at page 16, line 29, through page 17, line 3, and Figure 6 at reference numerals 310, 312, 306, 312, 316, 318, and 402). The means for carrying out the acts described in claim 12 include computer systems described at page 8, lines 5-15, in the original specification.

Claim 23 recites a computer program product of creating a presentation document (described for example at page 2, lines 3-5, page 9, line 4, through page 10, line 4, and Figure 1 at reference numerals 314, 120, and 122). The computer program product of claim 23 includes a recording medium (described for example at page 8, lines 17-28). The computer program product of claim 23 also includes means, recorded on the recording medium, for creating, in dependence upon an original document, a structured document comprising one or more structural elements (described for example at page 12, lines 19-28, page 16, lines 20-22, Figure 3 at reference numerals 304, 302, 306, 402, and Figure 6 at reference numerals 304, 302, 306, and 402). The computer program product of claim 23 also includes means, recorded on the recording medium, for classifying a structural element of the structured document according to a presentation attribute (described for example at page 16, lines 22-29, page 17, line 5, through page 21, line 28, and Figure 6 at reference numerals 350, 306, 402, and 352). The computer program product of claim 23 also includes means, recorded on the recording medium, for creating a presentation grammar for the structured document, wherein the presentation grammar for the structured document includes grammar elements each of which includes an identifier for at least one structural element of the structured document (described for example at page 16, line 29, through page 17, line 3, and Figure 6 at reference numerals 310, 312, 306, 312, 316, 318, and 402). The means for carrying out the acts described in claim 23 include computer program instructions embodied on a recording medium as described at page 8, lines 17-28, in the original specification.

GROUND OF REJECTION

In accordance with 37 CFR § 41.37(c)(1)(vi), Appellants provide the following concise statement for each ground of rejection:

1. Claims 1, 8-12, 18-23, and 29-33 are provisionally rejected on the ground of non-statutory double patenting over claims 1, 3, 4, 7-12, 15-20, and 23 of co-pending Application No. 10/734,764.

2. Claims 1-4, 7-9, 12-15, 18-20, 23-26, and 29-31 are rejected under 35 U.S.C § 103(a) over Raman, *et al.* (U.S. Patent No. 5,748,186) in view of Damiani, *et al.* ("A Fine-Grained Access Control System for XML Documents," *ACM Transaction on Information and System Security*, Vol. 5, No. 2, May 2002, pages 169-202).
3. Claims 5-6, 10-11, 16-17, 21-22, 27-28, and 32-33 are rejected under 35 U.S.C § 103(a) over Raman (U.S. Patent No. 5,748,186) in view of Damiani, *et al.* ("A Fine-Grained Access Control System for XML Documents," *ACM Transaction on Information and System Security*, Vol. 5, No. 2, May 2002, pages 169-202) in further view of Josephson (U.S. Patent Publication 2003/023435 A1).

ARGUMENT

Appellants present the following arguments pursuant to 37 CFR § 41.37(c)(1)(vii) regarding the three grounds of rejection on appeal in the present case.

ARGUMENT REGARDING THE FIRST GROUND OF REJECTION ON APPEAL: DOUBLE PATENTING REJECTIONS

Claims 1, 8-12, 18-23, and 29-33 are provisionally rejected on the ground of non-statutory double patenting over claims 1, 3, 4, 7-12, 15-20, and 23 of co-pending Application No. 10/734,764. In a submission of evidence pursuant to rule 37 C.F.R. § 41.33, Appellants filed a Terminal Disclaimer in compliance with 37 C.F.R. § 1.321 on April 26, 2007 for the present application to cure the double patenting rejections in the present application. Appellants respectfully submit that the rejections of claims 1, 8-12, 18-23, and 29-33 should be withdrawn.

**ARGUMENT REGARDING THE SECOND GROUND OF REJECTION ON APPEAL:
CLAIMS 1-4, 7-9, 12-15, 18-20, 23-26, AND 29-31 ARE REJECTED UNDER 35
U.S.C. § 103(A) AS BEING UNPATENTABLE OVER RAMAN IN VIEW OF DAMIANI**

Claims 1-4, 7-9, 12-15, 18-20, 23-26, and 29-31 stand rejected for obviousness under 35 U.S.C. § 103(a) as being unpatentable over Raman (U.S. Patent No. 5,748,186) in view of Damiani, *et al.* (“A Fine-Grained Access Control System for XML Documents,” *ACM Transaction on Information and System Security*, Vol. 5, No. 2, May 2002, pages 169-202). To establish a prima facie case of obviousness, three basic criteria must be met. *Manual of Patent Examining Procedure* § 2142. The first element of a prima facie case of obviousness under 35 U.S.C. § 103 is that the proposed combination of Raman and Damiani must teach or suggest all of Appellants’ claim limitations. *In re Royka*, 490 F.2d 981, 985, 180 USPQ 580, 583 (CCPA 1974). The second element of a prima facie case of obviousness under 35 U.S.C. § 103 is that there must be a suggestion or motivation to combine Raman and Damiani. *In re Vaeck*, 947 F.2d 488, 493, 20 USPQ2d 1438, 1442 (Fed. Cir. 1991). The third element of a prima facie case of obviousness under 35 U.S.C. § 103 is that there must be a reasonable expectation of success in the proposed combination of Raman and Damiani. *In re Merck & Co., Inc.*, 800 F.2d 1091, 1097, 231 USPQ 375, 379 (Fed. Cir. 1986). As demonstrated in detail below, the proposed combination of Raman and Damiani does not establish a prima facie case of obviousness. The rejection of claims 1-4, 7-9, 12-15, 18-20, 23-26, and 29-31 should therefore be withdrawn and the claims should be allowed. Appellants respectfully traverse each rejection individually and request reconsideration of claims 1-4, 7-9, 12-15, 18-20, 23-26, and 29-31.

**The Proposed Combination Of Raman And Damiani Does Not Teach Or
Suggest All Of The Claim Limitations Of Appellants’ Claims**

To establish a prima facie case of obviousness, the proposed combination of Raman and Damiani must teach or suggest all of the claim limitations of claims 1-4, 7-9, 12-15, 18-20, 23-26, and 29-31. *In re Royka*, 490 F.2d 981, 985, 180 USPQ 580, 583 (CCPA 1974). Independent claim 1 of the present application claims:

1. A method for creating a presentation document, the method comprising:

creating, in dependence upon an original document, a structured document comprising one or more structural elements;

classifying a structural element of the structured document according to a presentation attribute; and

creating a presentation grammar for the structured document, wherein the presentation grammar for the structured document includes grammar elements each of which includes an identifier for at least one structural element of the structured document.

As demonstrated in more detail below, the proposed combination of Raman and Damiani does not teach or suggest each and every element of independent claim 1, and the proposed combination of Raman and Damiani, therefore, does not establish a prima facie case of obviousness within the meaning of 35 U.S.C. § 103.

The Combination of Raman And Damiani Does
Not Teach Or Suggest Creating A Presentation Document

Claim 1 claims a method for “creating a presentation document.” In an attempt to support the obviousness rejections of Appellants’ method for creating a presentation document, the Final Office Action cites Raman and Damiani. As demonstrated below, however, neither Raman nor Damiani teach or suggest a presentation document as claimed in the present application. In the summary of the invention at page 2, lines 3-5, of the original application, Appellants state that a presentation document includes a presentation grammar and a structured document. A presentation grammar is a data structure that includes a set of key phrases used to identify presentation action identifiers and optional parameters for use in formulating presentation control instructions relevant to structural elements of a content type. *See* Original Specification at page 9, lines 19-22.

Appellants respectfully note that Damiani does not teach or suggest a presentation document that includes a presentation grammar and a structured document. Damiani generally discloses a fine-grained access control system for XML documents that has nothing whatsoever to do with a presentation document. In fact, Damiani never once teaches or suggests a grammar and a structured document combined together in a single presentation document. Damiani, therefore, cannot teach or suggest a presentation document that includes a presentation grammar and a structured document.

Turning now to Raman, Appellants respectfully note that Raman also does not teach or suggest a presentation document that includes a presentation grammar and a structured document. In an effort to demonstrate that Raman teaches a presentation document, the Final Office Action attempts to equate Appellants' structured document with Raman's common intermediate representation. *See* Final Office Action at page 20. The Final Office Action also attempts to equate Appellants' presentation grammar with Raman's control signals and navigational methods. *See* Final Office Action at pages 20-21. The Final Office Action, however, never once demonstrates that Raman teaches or suggests a document that includes both Raman's common intermediate representation and Raman's control signals and navigational methods. As such, the Final Office Action does not demonstrate that Raman discloses a presentation document that includes a presentation grammar and a structured document as in the present application. Because neither Raman nor Damiani teaches or suggests a presentation document that includes a presentation grammar and a structured document, the proposed combination of Raman and Damiani does not establish a prima facie case of obviousness, and the rejections should be withdrawn.

The Combination of Raman And Damiani Does Not Teach Or Suggest Creating A Presentation Grammar For The Structured Document, Wherein The Presentation Grammar For The Structured Document Includes Grammar Elements Each Of Which Includes An Identifier For At Least One Structural Element Of The Structured Document

The third element of claim 1 claims "creating a presentation grammar for the structured document, wherein the presentation grammar for the structured document includes

grammar elements each of which includes an identifier for at least one structural element of the structured document.” Regarding the third element of claim 1, the Final Office Action takes the position that Raman at column 2, lines 36-45, column 6, lines 30-33, column 3, lines 30-34, column 5, lines 38-46, claim 1, lines 13-15, column 4, lines 22-27, discloses the third element of Appellants’ claim 1. Appellants respectfully note in response, however, that what Raman at column 2, lines 36-45, in fact discloses is:

While presenting the information, the method receives control signals from a user using the plurality of user communication modalities. The control signals enable the user to interactively and independently control the receiving of the information and the presentation of the information in a plurality of presentation modalities.

As an advantage, the user can browse through the document taking the structure of the document into consideration. In addition, the user can control the presentation modality that is being used to render the document.

That is, Raman at column 2, lines 36-45, discloses receiving control signals from a user that enable the user to interactively and independently control the receiving of the information and the presentation of the information in a plurality of presentation modalities. In an attempt to demonstrate that Raman discloses the third element of claim 1, the Final Office Action attempts to equate Raman’s receiving control signals from a user with creating a presentation grammar as claimed in the present application.

Appellants respectfully point out from claim 1 that the presentation grammar includes grammar elements each of which includes an identifier for at least one structural element of the structured document. Raman, however, never even once mentions or suggests that Raman’s control signals include grammar elements each of which includes an identifier for at least one structural element of a structured document. In fact, Raman at column 2, lines 36-45, does not even mention ‘grammar,’ ‘presentation grammar,’ ‘grammar elements,’ ‘grammar elements each of which includes an identifier for at least one structural element of the structured document,’ or ‘creating a presentation grammar for the structured document, wherein the presentation grammar for the structured document includes grammar elements each of which includes an identifier for at least one structural

element of the structured document.’ Furthermore, as noted above, a presentation grammar is a data structure that includes a set of key phrases used to identify presentation action identifiers and optional parameters for use in formulating presentation control instructions relevant to structural elements of a content type. *See* Original Specification at page 9, lines 19-22. The cited portion of Raman does not demonstrate that Raman’s control signals are data structures that include a set of key phrases used to identify presentation action identifiers and optional parameters for use in formulating presentation control instructions relevant to structural elements of a content type. Because the combination of Raman and Damiani does not teach or suggest each and every element and limitation of Appellants’ claims, the proposed combination of Raman and Damiani does not establish a prima facie case of obviousness, and the rejections should be withdrawn.

Turning now to Raman at column 6, lines 30-33, Appellants respectfully note in response that what Raman at column 6, lines 30-33, in fact discloses is:

Control signals or events can include key strokes, mouse clicks, or other user input, including recognized speech. Events can have associated priorities. An event with a higher priority may preempt the processing of lower priority events.

That is, Raman at column 6, lines 30-33, discloses that control signals or events may be implemented as user input and that events may have associated priorities. Again, the Final Office Action attempts to equate control signals from a user with a presentation grammar as claimed in the present application. As mentioned above, claim 1 clearly indicates that the presentation grammar includes grammar elements each of which includes an identifier for at least one structural element of the structured document. Raman, however, never even once mentions or suggests that Raman’s control signals include grammar elements each of which includes an identifier for at least one structural element of a structured document. In fact, Raman at column 6, lines 30-33, does not even mention ‘grammar,’ ‘presentation grammar,’ ‘grammar elements,’ ‘grammar elements each of which includes an identifier for at least one structural element of the structured

document,’ or ‘creating a presentation grammar for the structured document, wherein the presentation grammar for the structured document includes grammar elements each of which includes an identifier for at least one structural element of the structured document.’ Furthermore, as noted above, a presentation grammar is a data structure that includes a set of key phrases used to identify presentation action identifiers and optional parameters for use in formulating presentation control instructions relevant to structural elements of a content type. *See* Original Specification at page 9, lines 19-22. The cited portion of Raman does not demonstrate that Raman’s control signals are data structures that include a set of key phrases used to identify presentation action identifiers and optional parameters for use in formulating presentation control instructions relevant to structural elements of a content type. Because the combination of Raman and Damiani does not teach or suggest each and every element and limitation of Appellants’ claims, the proposed combination of Raman and Damiani does not establish a *prima facie* case of obviousness, and the rejections should be withdrawn.

Turning now to Raman at column 3, lines 30-34, Appellants respectfully note in response that what Raman at column 3, lines 30-34, in fact discloses is:

An interactive interface 150 coupled to I/O devices 160 can be used to control the retriever 120 and the presentor 140. The I/O devices 160 can include a monitor, a keyboard, a mouse, a telephone key-pad, a voice input unit coupled to a speech recognizer, and a speech synthesizer.

That is, Raman at column 3, lines 30-34, discloses an interactive interface connected to I/O devices for receiving control signals. The Final Office Action continues to use Raman’s control signals in an effort to demonstrate that Raman teaches or suggests creating a presentation grammar. The Final Office Action attempts to equate receiving control signals from a user with creating a presentation grammar as claimed in the present application. As mentioned above, the presentation grammar includes grammar elements each of which includes an identifier for at least one structural element of the structured document. Raman, however, never even once mentions or suggests that Raman’s control signals include grammar elements each of which includes an identifier for at least one

structural element of a structured document. In fact, Raman at column 3, lines 30-34, does not even mention 'grammar,' 'presentation grammar,' 'grammar elements,' 'grammar elements each of which includes an identifier for at least one structural element of the structured document,' or 'creating a presentation grammar for the structured document, wherein the presentation grammar for the structured document includes grammar elements each of which includes an identifier for at least one structural element of the structured document.' In addition, Appellants note above that a presentation grammar is a data structure that includes a set of key phrases used to identify presentation action identifiers and optional parameters for use in formulating presentation control instructions relevant to structural elements of a content type. The cited portion of Raman does not demonstrate that Raman's interactive interface or control signals are data structures that include a set of key phrases used to identify presentation action identifiers and optional parameters for use in formulating presentation control instructions relevant to structural elements of a content type. Because the combination of Raman and Damiani does not teach or suggest each and every element and limitation of Appellants' claims, the proposed combination of Raman and Damiani does not establish a prima facie case of obviousness, and the rejections should be withdrawn.

Turning now to Raman at column 5, lines 38-46, Appellants respectfully note in response that what Raman at column 5, lines 38-46, in fact discloses is:

Navigation methods associated with objects allow the user to browse through the text taking the underlying structure of the document 111 into consideration. As an advantage, the object can be rendered or viewed in a plurality of presentation modalities, e.g., visible, audible, tactile. Multiple modalities can be presented concurrently in a synchronized manner, and according to a predetermined style to facilitate the comprehension of the presented information.

That is, Raman at column 5, lines 38-46, discloses navigational methods associated with objects that allow a user to browse through the text of a document taking the underlying structure of the document into consideration. The Final Office Action attempts to equate navigational methods with a presentation grammar as claimed in the present application.

Appellants note, however, from the original specification at page 9, lines 19-22, that a presentation grammar is a data structure that includes a set of key phrases used to identify presentation action identifiers and optional parameters for use in formulating presentation control instructions relevant to structural elements of a content type. In contrast, Raman's navigational methods are executable computer program instructions—not data structures similar to Appellants' presentation grammar. In addition, Appellants respectfully point out from claim 1 that the presentation grammar includes grammar elements each of which includes an identifier for at least one structural element of the structured document. Raman, however, never even once mentions or suggests that Raman's navigational methods include grammar elements each of which includes an identifier for at least one structural element of a structured document. In fact, Raman at column 5, lines 38-46, does not even mention 'grammar,' 'presentation grammar,' 'grammar elements,' 'grammar elements each of which includes an identifier for at least one structural element of the structured document,' or 'creating a presentation grammar for the structured document, wherein the presentation grammar for the structured document includes grammar elements each of which includes an identifier for at least one structural element of the structured document.' Because the combination of Raman and Damiani does not teach or suggest each and every element and limitation of Appellants' claims, the proposed combination of Raman and Damiani does not establish a prima facie case of obviousness, and the rejections should be withdrawn.

Turning now to Raman at claim 1, lines 13-15, Appellants respectfully note in response that what Raman at claim 1, lines 13-15, in fact discloses is:

presenting the common intermediate representation using a plurality of user communication modalities according to the hierarchical attribute tree....

That is, Raman at claim 1, lines 13-15, discloses presenting the common intermediate representation using a plurality of user communication modalities according to the hierarchical attribute tree. Raman's presenting the common intermediate representation using a plurality of user communication modalities according to the hierarchical attribute

tree clearly is not creating a presentation grammar for the structured document as claimed in the present application. The Final Office Action attempts to equate Appellants' presentation grammar with Raman's communications modalities used to present Raman's common intermediate representation. As mentioned above, Appellants respectfully point out from claim 1 that the presentation grammar includes grammar elements each of which includes an identifier for at least one structural element of the structured document. Raman, however, never even once mentions or suggests that Raman's communications modalities include grammar elements each of which includes an identifier for at least one structural element of a structured document. In fact, Raman at claim 1, lines 13-15, does not even mention 'grammar,' 'presentation grammar,' 'grammar elements,' 'grammar elements each of which includes an identifier for at least one structural element of the structured document,' or 'creating a presentation grammar for the structured document, wherein the presentation grammar for the structured document includes grammar elements each of which includes an identifier for at least one structural element of the structured document.' Furthermore, Raman's communications modalities cannot be Appellants' presentation grammar because, as mentioned above, Appellants' presentation grammar is included in a presentation document along with Appellants' structured document. In contrast, however, Raman's communications modalities are not included in a document along with Raman's common intermediate representation, which the Final Office Action asserts teaches Appellants' structured document. As such, Raman's communications modalities do not teach or suggest Appellants' presentation grammar. Because the combination of Raman and Damiani does not teach or suggest each and every element and limitation of Appellants' claims, the proposed combination of Raman and Damiani does not establish a prima facie case of obviousness, and the rejections should be withdrawn.

Turning now to Raman at column 4, lines 22-27, Appellants respectfully note in response that what Raman at column 4, lines 22-27, in fact discloses is:

The forms 115 are used to conduct a dialogue with the user. In the preferred embodiment of the invention, the user can select to interact with the forms 115 using speech. For example, the forms 115 can be used to get

a stock or a financial transaction. The system can say the prompts of the transaction, and the user input can be processed by the speech input unit of the I/O 160.

That is, Raman at column 4, lines 22-27, discloses forms used to conduct a dialogue with the user. Raman's forms used to conduct a dialogue with the user clearly are not creating a presentation grammar for the structured document, wherein the presentation grammar for the structured document includes grammar elements each of which includes an identifier for at least one structural element of the structured document as claimed in the present application. Raman never even once mentions or suggests that Raman's forms used to conduct a dialogue with the user include grammar elements each of which includes an identifier for at least one structural element of a structured document. In fact, Raman at column 4, lines 22-27, does not even mention 'grammar,' 'presentation grammar,' 'grammar elements,' 'grammar elements each of which includes an identifier for at least one structural element of the structured document,' or 'creating a presentation grammar for the structured document, wherein the presentation grammar for the structured document includes grammar elements each of which includes an identifier for at least one structural element of the structured document.' Because the combination of Raman and Damiani does not teach or suggest each and every element and limitation of Appellants' claims, the proposed combination of Raman and Damiani does not establish a prima facie case of obviousness, and the rejections should be withdrawn.

No Suggestion Or Motivation To Combine Raman And Damiani

To establish a prima facie case of obviousness, there must be a suggestion or motivation to combine Raman and Damiani. *In re Vaeck*, 947 F.2d 488, 493, 20 USPQ2d 1438, 1442 (Fed. Cir. 1991). The suggestion or motivation to combine the references must come from the teaching of the references themselves or from the knowledge of those of skill in the art, and the Examiner must explicitly point to a teaching within at least one of the references or within the knowledge of those of skill in the art suggesting the proposed combination or modification. Absent such a showing, the Examiner has impermissibly used "hindsight" occasioned by Appellants' own teaching to reject the claims. *In re*

Surko, 11 F.3d 887, 42 U.S.P.Q.2d 1476 (Fed. Cir. 1997); *In re Vaeck*, 947 F.2d 488m 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); *In re Gorman*, 933 F.2d 982, 986, 18 U.S.P.Q.2d 1885, 1888 (Fed. Cir. 1991); *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990); *In re Laskowski*, 871 F.,2d 115, 117, 10 U.S.P.Q.2d 1397, 1398 (Fed. Cir. 1989).

In the present application, the Final Office Action at pages 6-7 takes the position that Damiani at pages 192-196, example 6.1, provides a suggestion or motivation to combine the teachings of Raman and Damiani. Appellants respectfully note in response, however, that what Damiani at pages 192-196, example 6.1, in fact discloses is a system that provides users access to data based on each user's authorization. Damiani's system that provides users access to data based on each user's authorization, however, does not provide a suggestion or motivation to combine Raman and Damiani. Raman generally discloses interactive presentation of electronically encoded multi-media information. *See* Raman at Abstract. Damiani generally discloses a fine-grained access control system for XML documents. *See* Damiani at Title. Damiani's system that provides users access to data based on each user's authorization does not provide a suggestion or motivation to combine Raman's interactive presentation of electronically encoded multi-media information with Damiani's fine-grained access control system for XML documents because providing users access to data based on user authorization does not suggest that fine-grained access control system for XML documents should be accomplished by interactively presenting electronically encoded multi-media information. Because the Final Office Action has not explicitly pointed to a teaching within at least one of the references or within the knowledge of those of skill in the art suggesting the proposed combination of Raman and Damiani, the Final Office Action does not establish a prima facie case for obviousness, the rejections should be withdrawn, and the claims should be allowed.

Appellants further note that to establish a prima facie case of obviousness there must be a suggestion or motivation to combine Raman and Damiani that arrives at the claimed invention by doing what the Appellants have done. *Ex parte Levengood*, 28 USPQ2d 1300, 1302 (Bd. Pat. App. & Inter. 1993) (citing *Carella v. Starlight Archery*, 804 F.2d

135, 231 USPQ 644 (Fed. Cir. 1986); *Ashland Oil, Inc. v. Delta Resins & Refractories, Inc.*, 776 F.2d 281, 227 USPQ 657 (Fed. Cir. 1985)). Appellants claim methods, systems, and products for creating a presentation document that include, among other limitations, creating a presentation grammar for the structured document, wherein the presentation grammar for the structured document includes grammar elements each of which includes an identifier for at least one structural element of the structured document. As demonstrated above, the combination of Raman and Damiani does not disclose these limitations and cannot, therefore, provide a suggestion or motivation that arrives at the claimed invention by doing what the Appellants have done. Because the Office Action cannot provide evidence of the suggestion or motivation to combine Raman and Damiani that arrives at the claimed invention by doing what the Appellants have done, the Office Action does not establish a prima facie case of obviousness, the rejections under 35 U.S.C. § 103 should be withdrawn, and the claims should be allowed.

Relations Among Claims

Independent claim 1 claims method aspects of creating a presentation document according to embodiments of the present invention. Independent claims 12 and 23 respectively claim system and computer program product aspects of creating a presentation document according to embodiments of the present invention. Claim 1 is allowable for the reasons set forth above. Claims 12 and 23 are allowable because claim 1 is allowable. The rejections of independent claims 12 and 23, therefore, should be withdrawn, and the independent claims should be allowed.

Dependent claims 2-4 and 7-9 depend from independent claim 1. Dependent claims 13-15 and 18-20 depend from independent claim 12. Dependent claims 24-26 and 29-31 depend from independent claim 23. Each dependent claim includes all of the limitations of the independent claim from which it depends. Because the combination of Raman and Damiani does not teach or suggest each and every element of the independent claims, so also the combination of Raman and Damiani cannot possibly teach or suggest each and every element of dependent claims 2-4, 7-9, 13-15, 18-20, 24-26, and 29-31. The

rejections of dependent claims 2-4, 7-9, 13-15, 18-20, 24-26, and 29-31 therefore should be withdrawn, and the independent claims also should be allowed.

**ARGUMENT REGARDING THE THIRD GROUND OF REJECTION ON APPEAL:
CLAIMS 5-6, 10-11, 16-17, 21-22, 27-28, AND 32-33 STAND REJECTED UNDER
35 U.S.C. § 103(A) AS BEING UNPATENTABLE OVER RAMAN AND DAMIANI**

Claims 5-6, 10-11, 16-17, 21-22, 27-28, and 32-33 stand rejected for obviousness under 35 U.S.C § 103(a) as being unpatentable over Raman (U.S. Patent No. 5,748,186) in view of Damiani, *et al.* ("A Fine-Grained Access Control System for XML Documents," *ACM Transaction on Information and System Security*, Vol. 5, No. 2, May 2002, pages 169-202) in further view of Josephson (U.S. Patent Publication 2003/023435 A1). The rejections of claims 5-6, 10-11, 16-17, 21-22, 27-28, and 32-33 rely on the previous obviousness rejections under 35 U.S.C. § 103 arguing that the combination of Raman and Damiani teaches or suggests each and every element and limitation of independent claims 1, 12, and 23. Appellants, however, have demonstrated above that the combination of Raman and Damiani does not disclose each and every element of independent claims 1, 12, and 23.

To establish a *prima facie* case of obviousness, the proposed combinations of the references must teach or suggest all of the claim limitations of dependent claims 5-6, 10-11, 16-17, 21-22, 27-28, and 32-33. *In re Royka*, 490 F.2d 981, 985, 180 USPQ 580, 583 (CCPA 1974). Dependent claims 5-6, 10-11, 16-17, 21-22, 27-28, and 32-33 depend from independent claims 1, 12, and 23 respectively and include all of the limitations of the claims from which they depend. Because the proposed combinations rely on the argument that the combination of Raman and Damiani teaches each and every element of claims 1, 12, and 23, and because the combination of Raman and Damiani in fact does not teach or suggest each and every element of claim 1, 12, and 23, the proposed combination of Raman, Damiani, and Josephson cannot teach or suggest all the claim limitations of claims 5-6, 10-11, 16-17, 21-22, 27-28, and 32-33. The proposed combinations therefore cannot establish a *prima facie* case of obviousness and the

rejections should be withdrawn. Appellants respectfully request reconsideration of claims 5-6, 10-11, 16-17, 21-22, 27-28, and 32-33.

CONCLUSION OF APPELLANT'S ARGUMENTS

Claims 1, 8-12, 18-23, and 29-33 are provisionally rejected on the ground of non-statutory double patenting over claims 1, 3, 4, 7-12, 15-20, and 23 of co-pending Application No. 10/734,764. Appellants respectfully submit that the Terminal Disclaimer submitted pursuant to rule 37 C.F.R. § 41.33 cures the double patenting rejections in the present application. As such, the rejections of claims 1, 8-12, 18-23, and 29-33 should be withdrawn, and the claims should be allowed. Appellants respectfully traverse each rejection individually and request reconsideration of claims 1, 8-12, 18-23, and 29-33 in light of the present remarks.

Claims 1-4, 7-9, 12-15, 18-20, 23-26, and 29-31 stand rejected for obviousness under 35 U.S.C § 103(a) as being unpatentable over Raman in view of Damiani. For the reasons set forth above, however, the proposed combination of Raman and Damiani does not establish a prima facie case of obviousness. The rejection of claims 1-4, 7-9, 12-15, 18-20, 23-26, and 29-31 should therefore be withdrawn, and the claims should be allowed. Appellants respectfully traverse each rejection individually and request reconsideration of claims 1-4, 7-9, 12-15, 18-20, 23-26, and 29-31 in light of the present remarks.

Claims 5-6, 10-11, 16-17, 21-22, 27-28, and 32-33 stand rejected for obviousness under 35 U.S.C § 103(a) as being unpatentable over Raman in view of Damiani in further view of Josephson. For the reasons set forth above, however, the proposed combination of Raman, Damiani, and Josephson does not establish a prima facie case of obviousness. The rejections of claims 5-6, 10-11, 16-17, 21-22, 27-28, and 32-33 should be withdrawn, and the claims should be allowed. Appellants respectfully traverse each rejection individually and request reconsideration of claims 5-6, 10-11, 16-17, 21-22, 27-28, and 32-33 in light of the present remarks.

In view of the forgoing arguments, reversal on all grounds of rejection is requested.

The Commissioner is hereby authorized to charge or credit Deposit Account No. 09-0447 for any fees required or overpaid.

Respectfully submitted,

Date: May 11, 2007

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**APPENDIX OF CLAIMS
ON APPEAL IN PATENT APPLICATION OF
WILLIAM KRESS BODIN, *ET AL.*, SERIAL NO. 10/733,947**

CLAIMS

What is claimed is:

1. A method for creating a presentation document, the method comprising:

creating, in dependence upon an original document, a structured document comprising one or more structural elements;

classifying a structural element of the structured document according to a presentation attribute; and

creating a presentation grammar for the structured document, wherein the presentation grammar for the structured document includes grammar elements each of which includes an identifier for at least one structural element of the structured document.
2. The method of claim 1 wherein classifying a structural element comprises:

identifying a presentation attribute for the structural element;

identifying a classification identifier in dependence upon the presentation attribute; and

inserting the classification identifier in association with the structural element

in the structured document.

3. The method of claim 2 wherein:

identifying a presentation attribute for the structural element includes selecting a presentation attribute from a list of supported presentation attributes;

identifying a classification identifier includes identifying a classification identifier associated with the presentation attribute on the list; and

inserting the classification identifier includes manually editing the structured document.

4. The method of claim 2 wherein:

identifying a presentation attribute for the structural element includes selecting a presentation attribute from a list of supported presentation attributes, the presentation attribute having an associated classification identifier;

identifying a classification identifier includes inserting the classification identifier in a data structure in association with a structural element identifier for the structural element; and

inserting the classification identifier in the structured document includes reading the classification identifier from the data structure in dependence upon the structural element identifier.

5. The method of claim 2 further comprising providing a list of supported presentation attributes including at least one keyword and at least one indication of structural insertion scope for each presentation attribute, wherein:

identifying a presentation attribute for the structural element includes selecting a presentation attribute from the list in dependence upon a keyword from the structured document;

identifying a classification identifier includes identifying a classification identifier associated with the presentation attribute on the list; and

inserting the classification identifier includes inserting the classification identifier in the structured document according to a structural insertion scope for the selected presentation attribute.

6. The method of claim 2 further comprising providing a list of supported presentation attributes including at least one data pattern and at least one indication of structural insertion scope for each presentation attribute, wherein:

identifying a presentation attribute for the structural element includes selecting a presentation attribute from the list in dependence upon a data pattern from the structured document;

identifying a classification identifier includes identifying a classification identifier associated with the presentation attribute on the list; and

inserting the classification identifier includes inserting the classification identifier in the structured document according to a structural insertion scope for the selected presentation attribute.

7. The method of claim 1 wherein creating a structured document further comprises inserting in the structured document structural element identifiers for the structural elements.

8. The method of claim 1 wherein creating a structured document further comprises converting existing structural element identifiers from the original document to structural element identifiers for the structural elements of the structured document.
9. The method of claim 1 wherein creating a presentation grammar for the structured document comprises:

identifying the content type of the original document;

selecting, in dependence upon the content type, a full presentation grammar from among a multiplicity of full presentation grammars; and

filtering the full presentation grammar into a presentation grammar for the structured document in dependence upon the structural elements of the structured document.
10. The method of claim 9 wherein the full grammar comprises a multiplicity of grammar elements for the content type, wherein each grammar element includes:

an identifier of a structural element;

a key phrase for invoking a presentation action; and

a presentation action identifier representing a presentation action.
11. The method of claim 9 wherein filtering the full presentation grammar comprises writing from the full presentation grammar to the presentation grammar for the structured document each grammar element having an identifier of a structural element that occurs in the structured document.

12. A system for creating a presentation document, the system comprising:
- means for creating, in dependence upon an original document, a structured document comprising one or more structural elements;
- means for classifying a structural element of the structured document according to a presentation attribute; and
- means for creating a presentation grammar for the structured document, wherein the presentation grammar for the structured document includes grammar elements each of which includes an identifier for at least one structural element of the structured document.
13. The system of claim 12 wherein means for classifying a structural element comprises:
- means for identifying a presentation attribute for the structural element;
- means for identifying a classification identifier in dependence upon the presentation attribute; and
- means for inserting the classification identifier in association with the structural element in the structured document.
14. The system of claim 13 wherein:
- means for identifying a presentation attribute for the structural element includes means for selecting a presentation attribute from a list of supported presentation attributes;

means for identifying a classification identifier includes means for identifying a classification identifier associated with the presentation attribute on the list; and

means for inserting the classification identifier includes means for manually editing the structured document.

15. The system of claim 13 wherein:

means for identifying a presentation attribute for the structural element includes means for selecting a presentation attribute from a list of supported presentation attributes, the presentation attribute having an associated classification identifier;

means for identifying a classification identifier includes means for inserting the classification identifier in a data structure in association with a structural element identifier for the structural element; and

means for inserting the classification identifier in the structured document includes means for reading the classification identifier from the data structure in dependence upon the structural element identifier.

16. The system of claim 13 further comprising means for providing a list of supported presentation attributes including at least one keyword and at least one indication of structural insertion scope for each presentation attribute, wherein:

means for identifying a presentation attribute for the structural element includes means for selecting a presentation attribute from the list in dependence upon a keyword from the structured document;

means for identifying a classification identifier includes means for identifying a classification identifier associated with the presentation attribute on the list; and

means for inserting the classification identifier includes means for inserting the classification identifier in the structured document according to a structural insertion scope for the selected presentation attribute.

17. The system of claim 13 further comprising means for providing a list of supported presentation attributes including at least one data pattern and at least one indication of structural insertion scope for each presentation attribute, wherein:

means for identifying a presentation attribute for the structural element includes means for selecting a presentation attribute from the list in dependence upon a data pattern from the structured document;

means for identifying a classification identifier includes means for identifying a classification identifier associated with the presentation attribute on the list; and

means for inserting the classification identifier includes means for inserting the classification identifier in the structured document according to a structural insertion scope for the selected presentation attribute.

18. The system of claim 12 wherein means for creating a structured document further comprises means for inserting in the structured document structural element identifiers for the structural elements.

19. The system of claim 12 wherein means for creating a structured document further comprises means for converting existing structural element identifiers from the original document to structural element identifiers for the structural elements of the structured document.

20. The system of claim 12 wherein means for creating a presentation grammar for the structured document comprises:

means for identifying the content type of the original document;

means for selecting, in dependence upon the content type, a full presentation grammar from among a multiplicity of full presentation grammars; and

means for filtering the full presentation grammar into a presentation grammar for the structured document in dependence upon the structural elements of the structured document.

21. The system of claim 20 wherein the full grammar comprises a multiplicity of grammar elements for the content type, wherein each grammar element includes:

an identifier of a structural element;

a key phrase for invoking a presentation action; and

a presentation action identifier representing a presentation action.

22. The system of claim 20 wherein means for filtering the full presentation grammar comprises means for writing from the full presentation grammar to the presentation grammar for the structured document each grammar element having an identifier of a structural element that occurs in the structured document.

23. A computer program product for creating a presentation document, the computer program product comprising:

a recording medium;

means, recorded on the recording medium, for creating, in dependence upon an original document, a structured document comprising one or more structural elements;

means, recorded on the recording medium, for classifying a structural element of the structured document according to a presentation attribute; and

means, recorded on the recording medium, for creating a presentation grammar for the structured document, wherein the presentation grammar for the structured document includes grammar elements each of which includes an identifier for at least one structural element of the structured document.

24. The computer program product of claim 23 wherein means, recorded on the recording medium, for classifying a structural element comprises:

means, recorded on the recording medium, for identifying a presentation attribute for the structural element;

means, recorded on the recording medium, for identifying a classification identifier in dependence upon the presentation attribute; and

means, recorded on the recording medium, for inserting the classification identifier in association with the structural element in the structured document.

25. The computer program product of claim 24 wherein:

means, recorded on the recording medium, for identifying a presentation attribute for the structural element includes means, recorded on the recording medium, for selecting a presentation attribute from a list of supported presentation attributes;

means, recorded on the recording medium, for identifying a classification identifier includes means, recorded on the recording medium, for identifying a classification identifier associated with the presentation attribute on the list; and

means, recorded on the recording medium, for inserting the classification identifier includes means, recorded on the recording medium, for manually editing the structured document.

26. The computer program product of claim 24 wherein:

means, recorded on the recording medium, for identifying a presentation attribute for the structural element includes means, recorded on the recording medium, for selecting a presentation attribute from a list of supported presentation attributes, the presentation attribute having an associated classification identifier;

means, recorded on the recording medium, for identifying a classification identifier includes means, recorded on the recording medium, for inserting the classification identifier in a data structure in association with a structural element identifier for the structural element; and

means, recorded on the recording medium, for inserting the classification identifier in the structured document includes means, recorded on the recording medium, for reading the classification identifier from the data structure in dependence upon the structural element identifier.

27. The computer program product of claim 24 further comprising means, recorded on the recording medium, for providing a list of supported presentation attributes including at least one keyword and at least one indication of structural insertion scope for each presentation attribute, wherein:

means, recorded on the recording medium, for identifying a presentation attribute for the structural element includes means, recorded on the recording medium, for selecting a presentation attribute from the list in dependence upon a keyword from the structured document;

means, recorded on the recording medium, for identifying a classification identifier includes means, recorded on the recording medium, for identifying a classification identifier associated with the presentation attribute on the list; and

means, recorded on the recording medium, for inserting the classification identifier includes means, recorded on the recording medium, for inserting the classification identifier in the structured document according to a structural insertion scope for the selected presentation attribute.

28. The computer program product of claim 24 further comprising means, recorded on the recording medium, for providing a list of supported presentation attributes including at least one data pattern and at least one indication of structural insertion scope for each presentation attribute, wherein:

means, recorded on the recording medium, for identifying a presentation attribute for the structural element includes means, recorded on the recording medium, for selecting a presentation attribute from the list in dependence upon a data pattern from the structured document;

means, recorded on the recording medium, for identifying a classification identifier includes means, recorded on the recording medium, for identifying a classification identifier associated with the presentation attribute on the list; and

means, recorded on the recording medium, for inserting the classification identifier includes means, recorded on the recording medium, for inserting the classification identifier in the structured document according to a structural insertion scope for the selected presentation attribute.

29. The computer program product of claim 23 wherein means, recorded on the recording medium, for creating a structured document further comprises means,

recorded on the recording medium, for inserting in the structured document structural element identifiers for the structural elements.

30. The computer program product of claim 23 wherein means, recorded on the recording medium, for creating a structured document further comprises means, recorded on the recording medium, for converting existing structural element identifiers from the original document to structural element identifiers for the structural elements of the structured document.

31. The computer program product of claim 23 wherein means, recorded on the recording medium, for creating a presentation grammar for the structured document comprises:

means, recorded on the recording medium, for identifying the content type of the original document;

means, recorded on the recording medium, for selecting, in dependence upon the content type, a full presentation grammar from among a multiplicity of full presentation grammars; and

means, recorded on the recording medium, for filtering the full presentation grammar into a presentation grammar for the structured document in dependence upon the structural elements of the structured document.

32. The computer program product of claim 31 wherein the full grammar comprises a multiplicity of grammar elements for the content type, wherein each grammar element includes:

an identifier of a structural element;

a key phrase for invoking a presentation action; and

- a presentation action identifier representing a presentation action.
33. The computer program product of claim 31 wherein means, recorded on the recording medium, for filtering the full presentation grammar comprises means, recorded on the recording medium, for writing from the full presentation grammar to the presentation grammar for the structured document each grammar element having an identifier of a structural element that occurs in the structured document.

APPENDIX OF EVIDENCE

This is an evidence appendix in accordance with 37 CFR § 41.37(c)(1)(ix).

Appellants relied upon terminal disclaimer submitted pursuant to 37 C.F.R. §41.33 on April 26, 2007. A copy of this submission is included in this appendix labeled Exhibit A for the convenience of the Examiner and the Board.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
William K Bodin, et al.

Serial No.: 10/733,947

Filed: 12/11/2003

Title: Creating A Presentation
Document

§ Group Art Unit: 2176

§

§ Examiner: Botts, Michael K

§

§ Atty Docket No.: AUS920030836US1

§

§ Customer No.: 34533

§

§ Confirmation No.: 8912

Mail Stop: Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

EVIDENCE SUBMITTED PURSUANT TO 37 C.F.R. § 41.33

Dear Sir:

This paper submits a terminal disclaimer in response to the non-statutory double patenting rejections in the Final Office Action dated December 14, 2006 pursuant to rule 37 C.F.R. § 41.33, allowing admission of evidence after the filing date of a Notice of Appeal, but prior to the filing of an Appeal Brief. Claims 1-33 are in the case.

There are **no amendments to the Drawings** in this paper.

There are **no amendments to the Specification** in this paper.

There are **no amendments to the Claims** in this paper.

Remarks begin on page 2 of this paper.

REMARKS**DOUBLE PATENTING REJECTIONS**

The Office Action dated June 27, 2006 provisionally rejects claims 1, 8-12, 18-23, and 29-33 on the grounds of non-statutory double patenting over claims 1, 3, 4, 7-12, 15-20, and 23 of co-pending Application No. 10/734,764. In Applicant's Response to the Office Action of June 27, 2006, Applicant stated:

Applicants herewith submit a Terminal Disclaimer in compliance with 37 C.F.R. § 1.321 for the present application to cure the double patenting rejections in the present application.

In the Final Office Action, however, the Examiner noted that:

A double patenting rejection was made in the Second Non-Final Office Action, which was filed June 27, 2006. Applicants responded in a Response to Office Action Dated June 27, 2006, and stated that a Terminal Disclaimer had been filed with that Response.

The Examiner notes that no Terminal Disclaimer for this application is found in the files. Because Applicants have not remedied the double patenting rejection, it is herein maintained.

Through the submission of evidence pursuant to rule 37 C.F.R. § 41.33, Applicant provides the missing Terminal Disclaimer in response to the Examiner's comments in the Final Office Action. Applicant respectfully submits that the Terminal Disclaimer for the present application is in compliance with 37 C.F.R. § 1.321 and cures the double patenting rejections in the present application. As such, Applicant requests that the non-statutory double patenting rejections of claims 1, 8-12, 18-23, and 29-33 be withdrawn.

The Commissioner is hereby authorized to charge or credit Deposit Account No. 09-0447
for any fees required or overpaid.

Date: 4/26/07

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By: 

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**TERMINAL DISCLAIMER TO OBTAIN A PROVISIONAL DOUBLE PATENTING
REJECTION OVER A PENDING "REFERENCE" APPLICATION**Docket Number (Optional)
10/733,947

In re Application of: William K. Bodin, et al.

Application No.: 10/733,947

Filed: 12/11/2003

For: Creating a Presentation Document

The owner*, International Business Machines Corporation, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending reference Application Number 10/734,764, filed on 12/11/2003, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

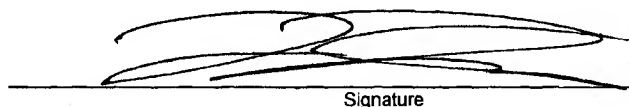
In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said reference application, "as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application," in the event that: any such patent: granted on the pending reference application: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 56,537



Signature

April 26, 2007

Date

Thomas D. Fortenberry

Typed or printed name

512-472-9881

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).

Form PTO/SB/96 may be used for making this statement. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

RELATED PROCEEDINGS APPENDIX

This is a related proceedings appendix in accordance with 37 CFR § 41.37(c)(1)(x).

There are no decisions rendered by a court or the Board in any proceeding identified pursuant to 37 CFR § 41.37(c)(1)(ii).